

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ADRIAN SCHOOLCRAFT,

10-cv-6005 (RWS)

Plaintiff,

**SUPPLEMENTAL
AFFIRMATION OF
NATHANIEL B.
SMITH**

-v-

CITY OF NEW YORK, et al.,

Defendants.

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Nathaniel B. Smith, being an attorney admitted to practice law in this State and before this Court, hereby states and declares under the penalties of perjury that the foregoing is true and correct:

1. As one of the attorneys for the plaintiff in the above-referenced action, I am submitting this affirmation in further support of the plaintiff's application for reasonable attorneys' fees, costs, and expenses of this action.

2. Attached hereto is revised chart reflecting the fees and expenses being sought by the "Smith group," as defined in the motion

papers. The only substantive modification to the chart that I submitted with my reply declaration was to update the fees sought to include a request for “fees on fees” for 106 hours of additional time that I billed in this action since filing the initial motion for fees on December 16, 2015. In addition, I am attaching my time records reflecting those hours. The time entries were made by me personally into an internet-based software program known as “Time59,” which I have been using since the beginning of this year. The entries are regularly made by me at the time the work was done or at the end of the work day, and these records are made, kept and maintained by me as a regular part of my practice.

Dated: May 12, 2016

LAW OFFICE OF
NATHANIEL B. SMITH

s/NBS

Nathaniel B. Smith
Attorney for Plaintiff
100 Wall Street – 23rd Floor
New York, New York 10006
(212) 227-7062

Smith Group Adjusted Billing Chart

<u>Attorney</u>	<u>Total Hours</u>	<u>Cost of Substitution</u>	<u>Law Enforcement</u>	<u>Hourly Rate</u>	<u>Adjusted Hours</u>	<u>Adjusted Bill</u>
Smith	2217.5 ¹	54.5	16.95	\$575	2146.05	\$1,233,978.70
Lenoir	1281	6.25	13.13	\$575	1261.62	\$706,481.50 ²
Bauza ³	1287	18.5	0	\$150	1268.5	\$190,275.00
Suckle	108.9	0	0	\$575	108.9	\$62,617.50
McCutcheon	23.38	0	0	\$250	23.38	\$5,845.00
Paralegals	442.18	0	0	\$125	442.18	\$55,272.50
Expenses						\$135,235.75
Fees on Fees ⁴	106.00			\$575		\$60,950.00
Total						\$2,459,655.90

¹ This reflects an adjustment from 2,246 hours downward by 28.5 hours to 2217.5 hours to account for a 50% hourly rate reduction for 57 hours of travel time.

² As noted in Lenoir's reply declaration, he has agreed to reduce his hourly rate to \$475 for 189.5 hours second seating the depositions in this case, thereby reducing his bill \$18,950 from \$725,431.50 to \$706,481.50.

³ Ms. Bauza is a law graduate.

⁴ Based on accompanying billing statement attached as Smith Supplemental Exhibit 1.

Law Office of Nathaniel B. Smith

**100 WALL STREET - 23rd Floor
NEW YORK, NY 10005**

PHONE: 212-227-7062 FAX: 212-230-1090

INVOICE

INVOICE NUMBER: 1
INVOICE DATE: MAY 11, 2016

Schoolcraft

DATE	PROJECT	DESCRIPTION	HOURS	RATE	AMOUNT
JAN-12-16	Fee Application	Review of discovery demands by City on fee application	0.20	\$575.00	\$115.00
JAN-13-16	Fee Application	Review of draft letter on city's discovery request and email to team on comments to it	0.40	\$575.00	\$230.00
JAN-15-16	Fee Application	Review caselaw and revise letter to Alan Scheiner re recent discovery demands from the City	1.50	\$575.00	\$862.50
JAN-29-16	Fee Application	review of letter (.3); tc A Schiener; tc JN	1.50	\$575.00	\$862.50
JAN-30-16	Fee Application	review of caselaw on ltr motion by city re fee app	1.50	\$575.00	\$862.50
FEB-05-16	Fee Application	Review of letter to court from city (.2); tc JN and JL re response (.3); review and revise draft response by GC (.3)	0.80	\$575.00	\$460.00
FEB-10-16	Fee Application	Tc JN; tc JL; Tc RG; tc MB re appearance before Judge Sweet tomorrow	1.10	\$575.00	\$632.50
FEB-10-16	Fee Application	Review of nine letters and cited authorities and review of prior declarations for motion on discovery and contemporaneous enties	3.50	\$575.00	\$2,012.50
FEB-11-16	Fee Application	Appear before Judge Sweet on discovery motion on fee application	1.80	\$575.00	\$1,035.00
FEB-25-16	Fee Application	review of discovery decision and tc with JN, GC and JF re same and to-do re settlement conference	0.50	\$575.00	\$287.50
MAR-01-16	Fee Application	Drafting ltr in opp to motion for third adjournment;; email co-co; tc GC and JF	1.80	\$575.00	\$1,035.00
MAR-02-16	Fee Application	revised ltr to court re adjournment request and settlement conf	0.30	\$575.00	\$172.50
MAR-02-16	Fee Application	Conf call with MJ Freeman re settlement	1.50	\$575.00	\$862.50
MAR-03-16	Fee Application	tc alan schiener re \$1.0 m total officer including expenses for all lawyers; conf with JL; email to AS confirming same	0.60	\$575.00	\$345.00
MAR-07-16	Fee Application	Review of settlement proposal from City (.2); tc JL re response (.3); tc MB re response (.3); tc JF re response (.5); email City re same (.1)	1.40	\$575.00	\$805.00

INVOICE NUMBER: 1

DATE	PROJECT	DESCRIPTION	HOURS	RATE	AMOUNT
MAR-08-16	Fee Application	Tc A Schiener re settlement discussions (.4); tc GC and w JL re same (.5); review of caselaw cited (.6)	1.50	\$575.00	\$862.50
MAR-09-16	Fee Application	review of cases cited by city (1.0); conf call with SMith Team (JL and MB re sttauts and settlement position)	2.50	\$575.00	\$1,437.50
MAR-10-16	Fee Application	review of cases cited by city and research on intertwining issue	1.50	\$575.00	\$862.50
MAR-11-16	Fee Application	Conf with team (HS, MB & JL) (1.0); conf call with the court re settlement (.8)	1.80	\$575.00	\$1,035.00
MAR-17-16	Fee Application	review of draft settlement letter	0.50	\$575.00	\$287.50
MAR-18-16	Fee Application	Drafting settlement letter to MJ Freeman; review of relevant cases on intertwining issue; two attorney issue and reasonable rates	2.80	\$575.00	\$1,610.00
MAR-20-16	Fee Application	Draft settlement letter, review co-co Ltrs	1.30	\$575.00	\$747.50
MAR-21-16	Fee Application	Revise settlement Ltr, review submissions by city as well as exhibits	2.00	\$575.00	\$1,150.00
MAR-22-16	Fee Application	Appear before MJ Freeman for settlement conference	4.30	\$575.00	\$2,472.50
MAR-29-16	Fee Application	Conf call with MF Freeman re settlement; city opp due 4-8-16	0.20	\$575.00	\$115.00
APR-04-16	Fee Application	tc JN and JF re recent city offer and review of same	0.30	\$575.00	\$172.50
APR-05-16	Fee Application	Tc Smith Team re City offer (.5); tc JF re same (.4); email with city re brief sizes (.1)	1.00	\$575.00	\$575.00
APR-10-16	Fee Application	Conference with team (.5) and drafting motion to strike expert report	3.50	\$575.00	\$2,012.50
APR-11-16	Fee Application	Review of materials on city expert; revise motion to strike; conference with co-counsel re motion to strike	1.50	\$575.00	\$862.50
APR-12-16	Fee Application	Read city brief in opposition to motion for fees and expert report in support of fees, together with supporting authorities and other exhibits (6.5); emails with opp co and with co-co re briefing schedule and oral argument/hearing schedule (.6)	7.10	\$575.00	\$4,082.50
APR-13-16	Fee Application	continued review of expert report (2.5); emails with co-co and opp co re scheduling (.3); ltr to court re same (.2)	3.00	\$575.00	\$1,725.00
APR-14-16	Fee Application	review of submissions by Bronsther in three other cases and review of objections and record in those cases (2.8); tc counsel in two of those cases (E. Boynton and J Heintz) (.5) and (.2	3.50	\$575.00	\$2,012.50
APR-19-16	Fee Application	research on expert issues and fee application issues for reply papers (1.2); review of correspondence and court papers for scope of case and identified witnesses (.8); correspondence by email with opp co and co-co re scheduling (.2)	2.20	\$575.00	\$1,265.00

INVOICE NUMBER: 1

DATE	PROJECT	DESCRIPTION	HOURS	RATE	AMOUNT
APR-19-16	Fee Application	review of opp papers for preparing reply (1.2); tc JL & MB re reply declaration (.4); tc HS re relpy dec (.3); review of cases cited by city (.7)	2.60	\$575.00	\$1,495.00
APR-24-16	Fee Application	Drafting reply papers (declaration and memo)	3.80	\$575.00	\$2,185.00
APR-25-16	Fee Application	Drafting reply dec and review of discover record	5.50	\$575.00	\$3,162.50
APR-26-16	Fee Application	Drafting reply dec and reply memo; and review of HS and JL reply decs	7.50	\$575.00	\$4,312.50
APR-27-16	Fee Application	Drafting and revising reply memo and reply declaration	6.50	\$575.00	\$3,737.50
APR-28-16	Fee Application	revising reply dec and reply mem	7.50	\$575.00	\$4,312.50
APR-29-16	Fee Application	Revising memo and dec	3.50	\$575.00	\$2,012.50
MAY-03-16	Fee Application	Draft letter to court re opposing adjournemnt and tc JF re same (.4); reviiw of brief filed by city on motion to strike (.4)	0.80	\$575.00	\$460.00
MAY-07-16	Fee Application	Preparing outline of reply on motion to strike and research on expert admissibility issues under FRE 702 and 1006	2.80	\$575.00	\$1,610.00
MAY-09-16	Fee Application	Drafting reply on motion to strike	5.80	\$575.00	\$3,335.00
MAY-10-16	Fee Application	revise reply on motion to strike	0.80	\$575.00	\$460.00
		Total hours for this invoice	106.00		
		Total amount of this invoice			\$60,950.00